

Compensation

What is compensation?

IC 36-2-5-13 Change of compensation of county officers and employees; determining increases or decreases in compensation

Sec. 13. (a) As used in this section, "**compensation**" *means the total of all money paid to*, or on behalf of, an elected county officer for performing duties as an elected county officer, regardless of the source of funds from which the money is paid. The term includes all employee benefits paid to an elected county officer, including life insurance, health insurance, disability insurance, retirement benefits, and pension benefits. For purposes of determining an increase or decrease in compensation of an elected county officer, the term does not include any of the following:

- (1) Payment of an insurance premium.
- (2) Payments in recognition of:
 - (A) longevity;
 - (B) professional certifications; or
 - (C) educational advancements; that are separately identified on a salary ordinance or resolution.
- (3) Payment of a stipend or per diem allowed by statute.



How is compensation determined?

IC 36-2-5-11(c) Annual county fiscal body meeting; presentation of budget estimates and recommendations by county auditor; tax rate and appropriations; consideration of statements and recommendations

(c) At its annual meeting under IC 36-2-3-7(b)(2), the county fiscal body shall consider the statements and recommendations submitted by the county executive under section 4(b) of this chapter and ***shall then adopt an ordinance***, separate from those adopted under subsection (b), fixing:

(1) ***the compensation of all officers, deputies and other employees*** subject to this chapter; and

(2) ***the number of deputies and other employees for each office, department, commission, or agency, except part-time and hourly rated employees, whose employment shall be limited only by the amount of funds appropriated to pay their compensation.***



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Salary Ordinance vs. Budget

- Salary Ordinance is the approved pay rates of the county officials and staff
- Budget is the approved amount to spend from funds, in this case for personal services

Which should come first?



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Can the salary ordinance be amended throughout the year?

Yes with one exception:

IC 36-2-5-13(c) Except as provided in subsection (d), the compensation of an elected county officer may not be changed in the year for which it is fixed.

The compensation of other county officers, deputies, and employees or the number of each may be changed at any time on:

- (1) the application of the county fiscal body or the affected officer, department, commission, or agency; and
- (2) a majority vote of the county fiscal body.

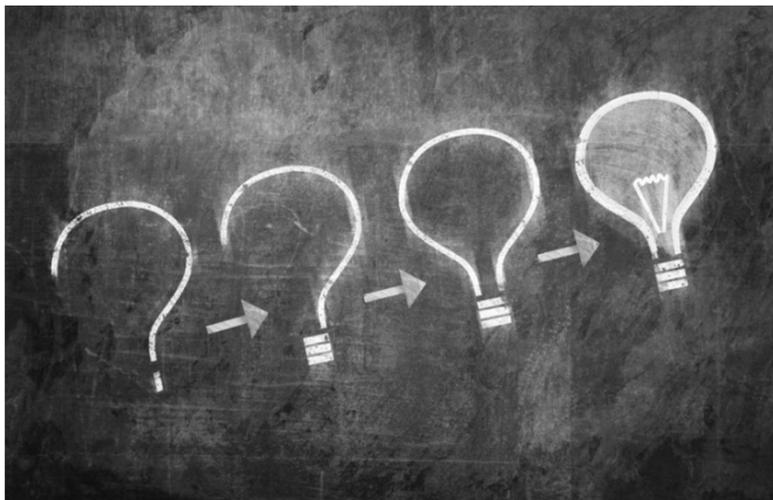
(d) In the year in which a newly elected county officer takes office, the county fiscal body may at any time change the compensation for holding the county office for that year if:

- (1) the county officer requests the compensation change or, in the case of the county executive body, a majority of the county executive body requests the change; and
- (2) the county fiscal body votes to approve the change.



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Common Questions



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Time Records

- Who is required to report hours worked or maintain a time card?
 - Everyone who is not an Elected official!
 - **IC 36-2-5-13(b):**

(b) Compensation shall be established using an annual, monthly, or biweekly salary schedule. **An elected county officer is not required to report hours worked and may not be compensated based on the number of hours worked.**



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27 Pays

- **County Bulletin – July 2013 (Volume 388, Page 7)**
 - **COMPENSATION – ANNUAL SALARIES – PROPER PAYMENTS**

Historically, even dollar amounts such as \$20,000 are set as an annual salary for an employee. With a bi-weekly payroll period established for the unit, it becomes difficult to pay an employee the exact amount of his/her annual salary since twenty-six payrolls (in some years there are twenty-seven) will not divide evenly. Unless an odd amount is paid for the last payroll period, the employee is either over or under paid the amount established in the salary ordinance causing either an unhappy employee or an unhappy local fiscal officer.

It is suggested for salary ordinances enacted in 2003 and all future periods, the employee salaries be established to coincide with the customary work and pay period. (For example, instead of \$20,000 annually, adopt \$385.00 weekly or \$770.00 bi-weekly.) By using this method it will make no difference if there are 52 or 53 weekly pays or 26 or 27 bi-weekly pays.



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Sheriff's Compensation

• Two Options:

1. The Sheriff, Commissioners, and Council can enter into a salary contract for the sheriff per IC 36-2-13-2.5(a).

OR

2. The Sheriff's salary can be a percentage of a full-time prosecuting attorney in the county (this percentage is based on population) per IC 36-2-13.2.8(c).



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W-2 vs Salary Ordinance

- W-2
 - This should be in agreement with the employees earnings record for the year.
- Salary Ordinance
 - Contains the approved payroll amounts for employees.

****These may not agree due to timing differences. The first pay of the year may contain hours from the prior year****



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Employees vs. Vendor

- Employees will receive a W-2
- Vendors who are contracted will receive a 1099

****There are some employees who also contract services. The IRS are who would make the determination if they receive a W-2 and/or a 1099****

<https://www.irs.gov/newsroom/understanding-employee-vs-contractor-designation>



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Overtime Rule

- Department of Labor announced a final overtime rule
 - raising the "standard salary level" from the currently enforced level of \$455 to \$684 per week (equivalent to \$35,568 per year for a full-year worker);
 - raising the total annual compensation level for "highly compensated employees (HCE)" from the currently-enforced level of \$100,000 to \$107,432 per year;
 - allowing employers to use nondiscretionary bonuses and incentive payments (including commissions) that are paid at least annually to satisfy up to 10 percent of the standard salary level, in recognition of evolving pay practices; and
 - revising the special salary levels for workers in U.S. territories and in the motion picture industry.
 - <https://www.dol.gov/whd/overtime2019/>



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Resources

- SBOA Website :
<https://www.in.gov/sboa/4856.htm>
- Email: Counties@sboa.in.gov
- Phone: 317-232-2512

